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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100812345-2142-03]

RIN 0648-XC728

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
2013 Commercial Accountability Measure and Closure for South
Atlantic Gray Triggerfish

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for
commercial gray triggerfish in the exclusive economic zone (EEZ)
of the South Atlantic. Commercial landings for gray
triggerfish, as estimated by the Science and Research Director
(SRD), are projected to reach the commercial annual catch limit
(ACL) on July 7, 2013. Therefore, NMFS closes the commercial
sector for gray triggerfish in the South Atlantic EEZ on July 7,
2013, and it will remain closed until the start of the next
fishing season, January 1, 2014. This closure is necessary to
protect the gray triggerfish resource.

DATES: This rule is effective 12:01 a.m., local time, July 7,

2013, until 12:01 a.m., local time, January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone: 727-824-5305, e-mail: Catherine.Hayslip@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes gray triggerfish and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

The commercial ACL for gray triggerfish in the South Atlantic is 305,262 lb (138,465 kg), round weight, for the current fishing year, January 1 through December 31, 2013, as specified in 50 CFR 622.193(q)(1)(i).

Under 50 CFR 622.193(q)(1), NMFS is required to close the commercial sector for gray triggerfish when the commercial ACL is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial ACL for South Atlantic gray triggerfish will have been reached by July 7, 2013. Accordingly, the commercial sector for South Atlantic gray triggerfish is closed effective 12:01 a.m., local time, July 7, 2013, until 12:01 a.m., local time, January 1, 2014.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having gray triggerfish onboard must have landed and bartered, traded, or sold such gray triggerfish prior to 12:01 a.m., local time, July 7, 2013. During the closure, the bag limit specified in 50 CFR 622.187(b)(8), applies to all harvest or possession of gray triggerfish in or from the South Atlantic EEZ. During the closure, the possession limits specified in 50 CFR 622.187(c), apply to all harvest or possession of gray triggerfish in or from the South Atlantic EEZ. During the closure, the sale or purchase of gray triggerfish taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of gray triggerfish that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, July 7, 2013, and were held in cold storage by a dealer or processor.

For a person on board a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the bag and possession limit provisions of the commercial closure for gray triggerfish would apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.193(q)(1)(i).

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of gray triggerfish and the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act, the FMP, and other applicable laws.

This action is taken under 50 CFR 622.193(q)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best available scientific information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds that the need to immediately implement this action to close the commercial sector for gray triggerfish constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure.

Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to

immediately implement this action to protect gray triggerfish since the capacity of the fishing fleet allows for rapid harvest of the commercial ACL. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 et seq.

Dated: June 26, 2013.

Kelly Denit,
Acting Deputy Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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